



February 22, 2008

ENGROSSED SENATE BILL No. 134

DIGEST OF SB 134 (Updated February 19, 2008 12:09 pm - DI 87)

Citations Affected: IC 4-21.5; IC 14-10; IC 14-34.

Synopsis: Consolidation of certain environmental and natural resources proceedings. Allows a party to seek to consolidate multiple proceedings that are subject to the jurisdiction of both the office of environmental adjudication and the natural resources commission's division of hearings. Requires a panel that includes an environmental law judge and an administrative law judge to hear consolidated proceedings.

Effective: July 1, 2008.

Meeks, Lanane

(HOUSE SPONSORS — LAWSON L, BISCHOFF)

January 8, 2008, read first time and referred to Committee on Judiciary.

January 16, 2008, reported favorably — Do Pass.

January 22, 2008, read second time, ordered engrossed.

January 23, 2008, engrossed.

January 29, 2008, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Government and Regulatory Reform.

February 21, 2008, reported — Do Pass.

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ES 134—LS 6467/DI 77+



February 22, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 134

A BILL FOR AN ACT to amend the Indiana Code concerning
natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-21.5-7-5, AS AMENDED BY P.L.99-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 5. **Except as provided in IC 14-10-2-2.5**, an
4 environmental law judge is the ultimate authority under this article for
5 reviews of agency actions of the department of environmental
6 management, actions of a board described in IC 13-14-9-1, and
7 challenges to rulemaking actions by a board described in IC 13-14-9-1
8 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.

9 SECTION 2. IC 4-21.5-7-5.5 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. A proceeding that is subject**
12 **to the jurisdiction of both the office and the natural resources**
13 **commission's division of hearings established under IC 14-10-2-2**
14 **may be consolidated under IC 14-10-2-2.5.**

15 SECTION 3. IC 14-10-2-2.5 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2008]: **Sec. 2.5. (a) A person who is the party in a hearing under**

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1 this title or IC 4-21.5-7 may move to have the:

2 (1) environmental law judge appointed under IC 4-21.5-7; or

3 (2) administrative law judge appointed under section 2 of this
4 chapter;

5 consolidate multiple proceedings that are subject to the jurisdiction
6 of both the office of environmental adjudication and the division of
7 hearings.

8 (b) The environmental law judge or the administrative law
9 judge shall grant the motion made under subsection (a) if the
10 following findings are made:

11 (1) The proceedings include the following:

12 (A) Common questions of law or fact.

13 (B) At least one (1) person, other than the department or
14 the department of environmental management, who is a
15 party to all the proceedings.

16 (C) Issues of water quality, water quantity, or both.

17 (2) Consolidation may support administrative efficiency.

18 (c) If a motion to consolidate proceedings has been granted
19 under subsection (b), the hearing must be conducted by a panel
20 that consists of at least one (1) environmental law judge and one (1)
21 administrative law judge. The panel is the ultimate authority for
22 matters authorized under IC 4-21.5-7-5 and this title. Any party,
23 including the department and the department of environmental
24 management, may petition an appropriate court for judicial review
25 of a final determination of the panel.

26 (d) The office of environmental adjudication and the division of
27 hearings shall adopt joint rules to implement this section.

28 SECTION 4. IC 14-10-2-3 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. Except as provided
30 in **section 2.5 of this chapter** and IC 14-34-2-2, the commission is the
31 ultimate authority of the department under IC 4-21.5.

32 SECTION 5. IC 14-34-2-2 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The commission
34 shall appoint the following:

35 (1) An administrative law judge to conduct proceedings under
36 IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.

37 (2) A hearing officer to conduct proceedings under IC 4-22-2.

38 (b) An administrative law judge is the ultimate authority for the
39 department for any administrative review proceeding under this article,
40 except for the following:

41 (1) Proceedings concerning the approval or disapproval of a
42 permit application or permit renewal under IC 14-34-4-13.

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- 1 (2) Proceedings for suspension or revocation of a permit under
2 IC 14-34-15-7.
3 **(3) Proceedings consolidated with the office of environmental**
4 **adjudication under IC 14-10-2-2.5.**
5 (c) An order made by an administrative law judge granting or
6 denying temporary relief from a decision of the director is a final order
7 of the department.
8 (d) Judicial review of a final order made by an administrative law
9 judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or
10 IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 134, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 134 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Engrossed Senate Bill 134.

MEEKS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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